

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BILLY LEE RHOADS,

Plaintiff,

Case No. 1:20-cv-913

Honorable Hala Y. Jarbou

v.

DEVON DERMYER,

Defendant.

ORDER DENYING LEAVE TO PROCEED *IN FORMA PAUPERIS* ON APPEAL

This is a civil rights action brought by a county jail inmate under 42 U.S.C. § 1983. The Court dismissed Plaintiff's action on November 3, 2020 (ECF Nos. 10, 11). Plaintiff has filed a notice of appeal. When the Court dismissed Plaintiff's complaint, the Court certified that Plaintiff's appeal would not be taken in good faith. Because of that certification, Plaintiff is not eligible to proceed on appeal *in forma pauperis*. 28 U.S.C. § 1915(a)(3).

Plaintiff is informed that within 28 days from the date of this notice he must submit the \$505.00 filing fee or he must file in the United States Court of Appeals for the Sixth Circuit a motion for leave to proceed *in forma pauperis*, a certified copy of a prisoner trust account statement, and an affidavit of indigence. 28 U.S.C. § 1915(a)(2); *McGore v. Wrigglesworth*, 114 F.3d 601, 609 (6th Cir. 1997), *overruled in other part by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013).

Plaintiff is also notified that if he fails to pay the filing fee or to file the required documents as described above, the Court of Appeals may dismiss his appeal for failure to prosecute under Rule 3 of the Federal Rules of Appellate Procedure. *See McGore*, 114 F.3d at 610. In that

case, this Court will assess the entire filing fee, which will be payable in full regardless of the previous dismissal. *See id.* In addition, the appeal will not be reinstated even if Plaintiff subsequently pays the filing fee or requests to proceed as a pauper. *See id.*

Accordingly,

IT IS ORDERED that leave to proceed *in forma pauperis* on appeal is **DENIED**, Plaintiff must seek leave to appeal *in forma pauperis* in the Sixth Circuit Court of Appeals or pay the filing fee as stated above.

Dated: December 3, 2020

/s/ Ray Kent
Ray Kent
United States Magistrate Judge

SEND REMITTANCES TO:

Clerk, U.S. District Court
399 Federal Bldg.
110 Michigan St., N.W.
Grand Rapids, MI 49503

All checks or other forms of payment shall be payable to “Clerk, U.S. District Court.”